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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>25 June 2008</u>.
2a)☒ This action is **FINAL**.   2b)☒ This action is non-final.
3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) <u>1,2 and 7-22</u> is/are pending in the application.
  4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5)☐ Claim(s) _____ is/are allowed.
6)☒ Claim(s) <u>1,2 and 7-22</u> is/are rejected.
7)☐ Claim(s) _____ is/are objected to.
8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.
10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.
  Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
  Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  a)☐ All   b)☐ Some * c)☐ None of:
    1.☐ Certified copies of the priority documents have been received.
    2.☐ Certified copies of the priority documents have been received in Application No. _____.
    3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
  * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)
1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
  Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413)
  Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

This communication is responsive to Amendment, filed 12/18/08.

Claims 1, 2, 7-22 are pending in this application. This action is made Final.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the

claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the

various claims was commonly owned at the time any inventions covered therein

were made absent any evidence to the contrary. Applicant is advised of the

obligation under 37 CFR 1.56 to point out the inventor and invention dates of each

claim that was not commonly owned at the time a later invention was made in order

for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35

U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 1, 2, 7-22 are rejected under 35 U.S.C. 103(a) as being unpatentable

over Ryan et al. (US Patent No. 6,421,675), in view of Subramonian et al. (US

Patent No. 6,701,362).

As per claim 1, Ryan teaches a method of accumulating and retrieving

information related to one or more information sources in a search space, said method

comprising:

providing central program code at a central computer *(i.e. as are a plurality of*

server computers 102A-B, and developer sites/computers 104A-B, col. 3, line 66 to col.

4, line 11);

said central program code being adapted for maintaining a central database of

data records *(i.e. a plurality of server computers 102A-B, and developer*

sites/computers 104A-B, col. 3, line 66 to col. 4, line 11), for accessing the information

related to said information sources stored in said central database *(Fig. 4)*, and for

comparing *(i.e. By updating the database with the selections of many different users,*

the database can be updated to prioritize those web listings that have been selected the

most with respect to a given keyword, and hereby presenting first the most popular web

page listings in a subsequent search using the same keyword search entry, col. 2, lines

25-36) said data records with said information related to said information sources *(i.e. a*

method of updating an internet search engine database with the results of a user's

selection of specific web page lists from the general web page listing provided to the

user as a result of his initial keyword search entry, col. 2, lines 25-36);

recognizing communication between said central program code and remote

program code *(i.e. As shown in FIG. 1B, a plurality of user sites/computers 100A-100D*

are shown, col. 3, line 66 to col. 4, line 11) at least one remote terminal *(i.e. The*

cumulative surfer trace is used to identify the search patterns of individual user based of

sorting by User ID 126. This information is used to update the personal link table 174 in

the same way that the cumulative surfer trace 170 is used to update Table 3 (keyword

URL link table 172). This table stores users past preferences as a form of automatic

book marking, col. 20, lines 1-8);

said remote program code being adapted for monitoring user activity *(i.e. This is*

a measure of bow users search. It is a trace of the key words they search for, the URLs

subsequently selected and how long they spend there, from which a ranking of web-

pages for a users (surfers) can be calculated. It is a measure of which web-pages they

found most useful after the key-word search. The combination of all surfer traces is

used to create a users' choice hit-list, col. 6, lines 29-36) of at least one user accessing

any information source in the search space irrespective of whether a uniform resource

locator (URL) accessed in the search space is the same as the URL of said central

program code *(i.e. FIG. 6 illustrates the process for determining a list of popular web*

pages associated with the entry of a keyword 270 in step 272. If this search is selected

and a keyword is entered, step 274 follows and produces a list of web pages based on

the values of X taken from Table 3 (172, FIG. 5) for the keyword 270 entered. These

web pages are identified by a unique web-page(URL) number from Table 3. Thereafter,

in step 276 the list of web-page numbers found from step 274 is combined with the URL

address and web-page description from Table 2 (188 FIG. 5). In step 278 the resulting

list of web pages is then tagged, depending on the results of step 246 in FIG. 5 as

described previously, and sent to the user for them to make their selections, col. 21,

lines 14-27), for collecting monitored data related to said user activity *(i.e. Surfer trace*

data, See Fig. 3A; data from user selection, Fig. 4), and for transmitting said monitored

data to said central program code *(i.e. This is a measure of bow users search. It is a*

trace of the key words they search for, the URLs subsequently selected and how long

they spend there, from which a ranking of web-pages for a users (surfers) can be

calculated. It is a measure of which web-pages they found most useful after the key-

word search. The combination of all surfer traces is used to create a users' choice hit-

list, col. 6, lines 29-36);

supplementing, at said central computer, said data records in accordance with

said monitored data to provide an augmented central database *(i.e. New web-page list:*

This is a list of new web-pages that is created by URL submissions from web-page

developers. When a web developer updates a web-page, they can submit the web-page

address, brief information about the page and a list of key-words that the developer

decides are relevant. The web-page is then placed on the top of each of the key-word

new web-page lists, col. 6, lines 61-67);

responsive to a request for information from said at least one user, identifying

candidate response information related to said information sources at said central

computer *(i.e. FIG. 8 illustrates a high-flying web pages search associated with the*

keyword entered in step 320. This is a list of web pages that ate increasing in popularity

fastest. If this search is selected and a keyword is entered, step 324 follows and

produces a list of web pages based on the relationship between the values X and Y

taken from Table 3 (172, FIG. 5) for the keyword 320 entered. These web pages are

identified by a unique web-page (URL) number from Table 3. Thereafter, in step 326 the

list of web-page numbers found from step 324 is combined with the URL address and web-page description from Table 2 (188 FIG. 5). In step 328 the resulting list of web pages is then tagged depending on the results of step 246 in FIG. 5 and sent to the user for them to make their selection, col. 21, lines 51-64); and

comparing contents of said augmented central database with said candidate response information at said central computer *(i.e. The high-flyer list is calculated by comparing the old popular ranking (Y) and the new popular ranking (X) from Table 3. From this the percentage increase in hits is calculated. An alternative method would be to rank the rate of change of popularity by the number of places they rose compared to last time, col. 21, lines 65 to col. 22, line 3);* and

as a result of said identifying and said comparing, transmitting, to said remote program code at said at least one remote terminal, data concerning one or more of said information sources which contain information relevant to said request so as to progressively tailor information retrieval results for said at least one user and provide said information retrieval results to said at least one user *(i.e. FIG. 8 illustrates a high-flying web pages search associated with the keyword entered in step 320. This is a list of web pages that ate increasing in popularity fastest. If this search is selected and a keyword is entered, step 324 follows and produces a list of web pages based on the relationship between the values X and Y taken from Table 3 (172, FIG. 5) for the keyword 320 entered. These web pages are identified by a unique web-page (URL) number from Table 3. Thereafter, in step 326 the list of web-page numbers found from step 324 is combined with the URL address and web-page description from Table 2*

(188 FIG. 5). In step 328 the resulting list of web pages is then tagged depending on the results of step 246 in FIG. 5 and sent to the user for them to make their selection, col. 21, lines 51-64).

Ryan does not specifically teach:

wherein said remote program code monitors said user activity without requiring said at least one user to access a search engine or any particular web site, and the monitoring is independent of the at least one user's access to any search engine.

Subramonian teaches:

wherein said remote program code *(i.e. a user profiling module (UPM) 58, See Fig. 3)* monitors said user activity without requiring said at least one user to access a search engine *(i.e. Other application 66, col. 6, lines 63 to col. 7, line 14)* or any particular web site *(i.e. Examples of external devices 60 include televisions, video cassette recorders (VCRs), audio systems, phone systems, pagers, and the like, col. 6, line 63 to col. 7, line 14)* , and the monitoring is independent of the at least one user's access to any search engine *(i.e. According to the teachings of the present invention, a user profiling module (UPM) 58 executing on client computer 12 is responsible for generating personalized profiles for users. According to an embodiment of the present invention, UPM 58 builds user profiles by monitoring and collecting information on the users' activities. For a particular user, the user activities may include the user's interactions with browser 52, or interactions with other applications 66 executing on client system 12. Other applications 66 may include word processors, mail applications, graphics applications, database applications, and the like. Generally, other applications*

66 may include any application which may be executed by client computer 12. The user

activities monitored by UPM 58 may also include activities performed by the user on

external devices 60 which are either coupled to client computer 12 or which are capable

of exchanging information with client computer 12. Examples of external devices 60

include televisions, video cassette recorders (VCRs), audio systems, phone systems,

pagers, and the like, col. 6, line 63 to col. 7, line 14).

It would have been obvious to one of ordinary skill of the art having the teaching

of Ryan and Subramonian at the time the invention was made to modify the system of

Ryan to include the limitations as taught by Subramonian. One of ordinary skill in the art

would be motivated to make this combination in order to monitor and collect information

on the users' activities in view of Subramonian (col. 6, line 63 to col. 7, line 14), as doing

so would give the added benefit of including activities performed by the user on external

devices which are either coupled to client computer or which are capable of exchanging

information with client computer. as taught by Subramonian (col. 6, line 63 to col. 7, line

14).

Claim 21 is substantially similar in scope of claim 1, under similar rationale as

provided in claim 1; the same reasoning would be applicable to claim 21.

As per claim 2, Ryan teaches an information retrieval system for accumulation

and retrieval of data related to one or more information sources in a search space, said

system comprising:

remote program code at least one remote terminal *(i.e. As shown in FIG. 1B, a*

plurality of user sites/computers 100A-100D are shown, col. 3, line 66 to col. 4, line 11);

said remote program code being adapted for monitoring user activity *(i.e. This is*

a measure of bow users search. It is a trace of the key words they search for, the URLs

subsequently selected and how long they spend there, from which a ranking of web-

pages for a users (surfers) can be calculated. It is a measure of which web-pages they

found most useful after the key-word search. The combination of all surfer traces is

used to create a users' choice hit-list, col. 6, lines 29-36) of at least one user accessing

any information source in the search space irrespective of whether a uniform resource

locator (URL) accessed in the search space is the same as the URL of said central

program code *(i.e. FIG. 6 illustrates the process for determining a list of popular web*

pages associated with the entry of a keyword 270 in step 272. If this search is selected

and a keyword is entered, step 274 follows and produces a list of web pages based on

the values of X taken from Table 3 (172, FIG. 5) for the keyword 270 entered. These

web pages are identified by a unique web-page(URL) number from Table 3. Thereafter,

in step 276 the list of web-page numbers found from step 274 is combined with the URL

address and web-page description from Table 2 (188 FIG. 5). In step 278 the resulting

list of web pages is then tagged, depending on the results of step 246 in FIG. 5 as

described previously, and sent to the user for them to make their selections, col. 21,

lines 14-27), for collecting monitored data related to said user activity *(i.e. Surfer trace*

data, See Fig. 3A; data from user selection, Fig. 4) and to each of said information

sources accessed by said at least one user, and for transmitting said monitored data

(i.e. This is a measure of bow users search. It is a trace of the key words they search

for, the URLs subsequently selected and how long they spend there, from which a

ranking of web-pages for a users (surfers) can be calculated. It is a measure of which

web-pages they found most useful after the key-word search. The combination of all

surfer traces is used to create a users' choice hit-list, col. 6, lines 29-36; By updating the

database with the selections of many different users, the database can be updated to

prioritize those web listings that have been selected the most with respect to a given

keyword, and hereby presenting first the most popular web page listings in a

subsequent search using the same keyword search entry, col. 2, lines 25-36); and

a central computer having central program code *(i.e. as are a plurality of server*

computers 102A-B, and developer sites/computers 104A-B, col. 3, line 66 to col. 4, line

11) receiving said monitored data *(i.e. Surfer trace data, See Fig. 3A; data from user*

selection, Fig. 4) transmitted from said remote program code *(i.e. This is a measure of*

bow users search. It is a trace of the key words they search for, the URLs subsequently

selected and how long they spend there, from which a ranking of web-pages for a users

(surfers) can be calculated. It is a measure of which web-pages they found most useful

after the key-word search. The combination of all surfer traces is used to create a users'

choice hit-list, col. 6, lines 29-36);

said central program code being adapted for maintaining a central database *(Fig.*

4) of data records *(i.e. a plurality of server computers 102A-B, and developer*

sites/computers 104A-B, col. 3, line 66 to col. 4, line 11), for accessing information

related to said information sources, and for comparing *(i.e. The high-flyer list is*

calculated by comparing the old popular ranking (Y) and the new popular ranking (X)

from Table 3. From this the percentage increase in hits is calculated. An alternative

method would be to rank the rate of change of popularity by the number of places they

rose compared to last time, col. 21, lines 65 to col. 22, line 3) said data records with

said information related to said information sources *(i.e. By updating the database with*

the selections of many different users, the database can be updated to prioritize those

web listings that have been selected the most with respect to a given keyword, and

hereby presenting first the most popular web page listings in a subsequent search using

the same keyword search entry, col. 2, lines 25-36);

wherein said central program code supplements said data records in accordance

with said monitored data to provide an augmented central database *(i.e. New web-page*

list: This is a list of new web-pages that is created by URL submissions from web-page

developers. When a web developer updates a web-page, they can submit the web-page

address, brief information about the page and a list of key-words that the developer

decides are relevant. The web-page is then placed on the top of each of the key-word

new web-page lists, col. 6, lines 61-67);

said central computer identifying candidate response information related to said

information sources in response to a request for information from said at least one user

(i.e. FIG. 8 illustrates a high-flying web pages search associated with the keyword

entered in step 320. This is a list of web pages that ate increasing in popularity fastest.

If this search is selected and a keyword is entered, step 324 follows and produces a list

of web pages based on the relationship between the values X and Y taken from Table 3

(172, FIG. 5) for the keyword 320 entered. These web pages are identified by a unique web-page (URL) number from Table 3. Thereafter, in step 326 the list of web-page numbers found from step 324 is combined with the URL address and web-page description from Table 2 (188 FIG. 5). In step 328 the resulting list of web pages is then tagged depending on the results of step 246 in FIG. 5 and sent to the user for them to make their selection, col. 21, lines 51-64), comparing contents of said augmented central database with said request and with said candidate response information *(i.e. The high-flyer list is calculated by comparing the old popular ranking (Y) and the new popular ranking (X) from Table 3. From this the percentage increase in hits is calculated. An alternative method would be to rank the rate of change of popularity by the number of places they rose compared to last time, col. 21, lines 65 to col. 22, line 3),* and transmitting, to said remote program code at said at least one remote terminal, data concerning one or more of said information sources which contain information relevant to said request so as to progressively tailor information retrieval results for said at least one user and provide said information retrieval results to said at least one user *(i.e. FIG. 8 illustrates a high-flying web pages search associated with the keyword entered in step 320. This is a list of web pages that ate increasing in popularity fastest. If this search is selected and a keyword is entered, step 324 follows and produces a list of web pages based on the relationship between the values X and Y taken from Table 3 (172, FIG. 5) for the keyword 320 entered. These web pages are identified by a unique web-page (URL) number from Table 3. Thereafter, in step 326 the list of web-page numbers found from step 324 is combined with the URL address and web-page description from Table*

2 (188 FIG. 5). In step 328 the resulting list of web pages is then tagged depending on the results of step 246 in FIG. 5 and sent to the user for them to make their selection, col. 21, lines 51-64).

Ryan does not specifically teach:

wherein said remote program code monitors said user activity without requiring said at least one user to access a search engine or any particular web site, and the monitoring is independent of the at least one user's access to any search engine.

Subramonian teaches:

wherein said remote program code *(i.e. a user profiling module (UPM) 58, See Fig. 3)* monitors said user activity without requiring said at least one user to access a search engine *(i.e. Other application 66, col. 6, lines 63 to col. 7, line 14)* or any particular web site *(i.e. Examples of external devices 60 include televisions, video cassette recorders (VCRs), audio systems, phone systems, pagers, and the like, col. 6, line 63 to col. 7, line 14)* , and the monitoring is independent of the at least one user's access to any search engine *(i.e. According to the teachings of the present invention, a user profiling module (UPM) 58 executing on client computer 12 is responsible for generating personalized profiles for users. According to an embodiment of the present invention, UPM 58 builds user profiles by monitoring and collecting information on the users' activities. For a particular user, the user activities may include the user's interactions with browser 52, or interactions with other applications 66 executing on client system 12. Other applications 66 may include word processors, mail applications, graphics applications, database applications, and the like. Generally, other applications*

66 may include any application which may be executed by client computer 12. The user

activities monitored by UPM 58 may also include activities performed by the user on

external devices 60 which are either coupled to client computer 12 or which are capable

of exchanging information with client computer 12. Examples of external devices 60

include televisions, video cassette recorders (VCRs), audio systems, phone systems,

pagers, and the like, col. 6, line 63 to col. 7, line 14).

It would have been obvious to one of ordinary skill of the art having the teaching

of Ryan and Subramonian at the time the invention was made to modify the system of

Ryan to include the limitations as taught by Subramonian. One of ordinary skill in the art

would be motivated to make this combination in order to monitor and collect information

on the users' activities in view of Subramonian (col. 6, line 63 to col. 7, line 14), as doing

so would give the added benefit of including activities performed by the user on external

devices which are either coupled to client computer or which are capable of exchanging

information with client computer as taught by Subramonian (col. 6, line 63 to col. 7, line

14).

Claim 22 is substantially similar in scope of claim 2, under similar rationale as

provided in claim 2, the same reasoning would be applicable to claim 22.

As to claims 7, 13, Ryan teaches said monitored data comprise implicit data,

including data selected form the group consisting of queries and actions taken after

receiving responses to said queries, said implicit data being added iteratively to said

central database to form said augmented central database *(i.e. New web-page list: This is a list of new web-pages that is created by URL submissions from web-page developers. When a web developer updates a web-page, they can submit the web-page address, brief information about the page and a list of key-words that the developer decides are relevant. The web-page is then placed on the top of each of the key-word new web-page lists, col. 6, lines 61-67)* so as to progressively tailor information retrieval results for said at least one user based on said implicit data *(i.e. FIG. 8 illustrates a high-flying web pages search associated with the keyword entered in step 320. This is a list of web pages that ate increasing in popularity fastest. If this search is selected and a keyword is entered, step 324 follows and produces a list of web pages based on the relationship between the values X and Y taken from Table 3 (172, FIG. 5) for the keyword 320 entered. These web pages are identified by a unique web-page (URL) number from Table 3. Thereafter, in step 326 the list of web-page numbers found from step 324 is combined with the URL address and web-page description from Table 2 (188 FIG. 5). In step 328 the resulting list of web pages is then tagged depending on the results of step 246 in FIG. 5 and sent to the user for them to make their selection, col. 21, lines 51-64).*

As to claims 8, 9, 14, 15, Ryan teaches said monitored data comprise explicit data *(i.e. Surfer trace data, See Fig. 3A; data from user selection, Fig. 4)*, including user input in response to one or more queries from said central computer, said user input including data selected form the group consisting of user profile information and user

feedback concerning information retrieval results *(i.e. The HTTP link associated with the "www.weather.com" label is "http:l/www.weather.com". This means that if the user selects this link, they will navigate to this page directly, col. 10, lines 15-17)* said explicit data being added iteratively to said central database to form said augmented central database *(i.e. New web-page list: This is a list of new web-pages that is created by URL submissions from web-page developers. When a web developer updates a web-page, they can submit the web-page address, brief information about the page and a list of key-words that the developer decides are relevant. The web-page is then placed on the top of each of the key-word new web-page lists, col. 6, lines 61-67)* so as to progressively tailor information retrieval results for said at least one user based on said explicit *(i.e. FIG. 8 illustrates a high-flying web pages search associated with the keyword entered in step 320. This is a list of web pages that ate increasing in popularity fastest. If this search is selected and a keyword is entered, step 324 follows and produces a list of web pages based on the relationship between the values X and Y taken from Table 3 (172, FIG. 5) for the keyword 320 entered. These web pages are identified by a unique web-page (URL) number from Table 3. Thereafter, in step 326 the list of web-page numbers found from step 324 is combined with the URL address and web-page description from Table 2 (188 FIG. 5). In step 328 the resulting list of web pages is then tagged depending on the results of step 246 in FIG. 5 and sent to the user for them to make their selection, col. 21, lines 51-64).*

As to claims 10, 16, Ryan teaches remote program code is adapted for

monitoring user activity of a plurality of users at a respective plurality of remote

terminals, for collecting said monitored data related to said user activity and to one of

said information sources accessed by each of said plurality of remote terminals *(i.e. As*

shown in FIG. 1B, a plurality of user sites/computers 100A-100D are shown, col. 3, line

66 to col. 4, line 11), and for transmitting said monitored to said central program code

(i.e. This is a measure of bow users search. It is a trace of the key words they search

for, the URLs subsequently selected and how long they spend there, from which a

ranking of web-pages for a users (surfers) can be calculated. It is a measure of which

web-pages they found most useful after the key-word search. The combination of all

surfer traces is used to create a users' choice hit-list, col. 6, lines 29-36);

said supplementing comprises supplementing said data records based on said

user activity at said plurality of remote terminals to provide said augmented central

database *(i.e. New web-page list: This is a list of new web-pages that is created by URL*

submissions from web-page developers. When a web developer updates a web-page,

they can submit the web-page address, brief information about the page and a list of

key-words that the developer decides are relevant. The web-page is then placed on the

top of each of the key-word new web-page lists, col. 6, lines 61-67); and

said transmitting to said remoter program code comprises progressively tailoring

said information retrieval results for said at least one user based on said user activity at

said plurality of remote terminals *(i.e. FIG. 8 illustrates a high-flying web pages search*

associated with the keyword entered in step 320. This is a list of web pages that ate

increasing in popularity fastest. If this search is selected and a keyword is entered, step

324 follows and produces a list of web pages based on the relationship between the

values X and Y taken from Table 3 (172, FIG. 5) for the keyword 320 entered. These

web pages are identified by a unique web-page (URL) number from Table 3. Thereafter,

in step 326 the list of web-page numbers found from step 324 is combined with the URL

address and web-page description from Table 2 (188 FIG. 5). In step 328 the resulting

list of web pages is then tagged depending on the results of step 246 in FIG. 5 and sent

to the user for them to make their selection, col. 21, lines 51-64).

As to claims 11, 17, Ryan teaches said monitored data includes a plurality of

user profiles *(See Fig. 4)*, and wherein said central computer groups contents of said

augmented central database based on said plurality of user profiles so as to tailor said

information retrieval results for said at least one user based on ones of said plurality of

user profiles most closely matching a user profile of said at least one user *(i.e. FIG. 8*

illustrates a high-flying web pages search associated with the keyword entered in step

320. This is a list of web pages that ate increasing in popularity fastest. If this search is

selected and a keyword is entered, step 324 follows and produces a list of web pages

based on the relationship between the values X and Y taken from Table 3 (172, FIG. 5)

for the keyword 320 entered. These web pages are identified by a unique web-page

(URL) number from Table 3. Thereafter, in step 326 the list of web-page numbers found

from step 324 is combined with the URL address and web-page description from Table

2 (188 FIG. 5). In step 328 the resulting list of web pages is then tagged depending on

the results of step 246 in FIG. 5 and sent to the user for them to make their selection,

col. 21, lines 51-64).

As to claims 12, 18, Ryan teaches said information retrieval results include an

identity of at least one other user with whom said at least one user then can

communicate to obtain further information *(i.e. FIG. 8 illustrates a high-flying web pages*

search associated with the keyword entered in step 320. This is a list of web pages that

ate increasing in popularity fastest. If this search is selected and a keyword is entered,

step 324 follows and produces a list of web pages based on the relationship between

the values X and Y taken from Table 3 (172, FIG. 5) for the keyword 320 entered.

These web pages are identified by a unique web-page (URL) number from Table 3.

Thereafter, in step 326 the list of web-page numbers found from step 324 is combined

with the URL address and web-page description from Table 2 (188 FIG. 5). In step 328

the resulting list of web pages is then tagged depending on the results of step 246 in

FIG. 5 and sent to the user for them to make their selection, col. 21, lines 51-64).

As to claims 19, 20, Subramonian teaches said search space comprises the

Internet, and media programming comprising at least one of television programming

and radio programming, so that at least one user can access said media programming

as a result of said information retrieval results *(i.e. Client computer system 12 itself can*

be of varying types including a personal computer, a portable computer, a workstation,

a computer terminal, a network computer, a television, a mainframe, or any other data

processing system or user device. Due to the ever-changing nature of computers and

networks, the description of client computer system 12 depicted in FIG. 2 is intended

only as a specific example for purposes of illustrating the preferred embodiment of the

present invention. Many other configurations of client system 12 are possible having

more or less components than the computer system depicted in FIG. 2. Servers 16

coupled to communication network 14 may generally have the same configuration as

client system 12 depicted in FIG. 2., although the server systems 16 typically have more

storage capacity and computing power than the client systems, col. 6, lines 17-32).

Response to Arguments

Applicant's arguments filed 12/18/08 have been fully considered but they are not
persuasive.

Firstly, in response to applicant's argument that the references fail to show
certain features of applicant's invention, it is noted that the features upon which
applicant relies (i.e., *"the monitoring occurs irrespective of whether a URL accessed in the search*
space is the same as the URL of the central program code. The monitored data is transmitted to the
central program code"; i.e., "a user who is accessing information in the search space who does not
access the particular website or search engine") are not clearly recited in the rejected claim(s).
Although the claims are interpreted in light of the specification, limitations from the
specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26
USPQ2d 1057 (Fed. Cir. 1993).

Secondly, in response to Applicant's arguments with respect to Ryan and

Subramonian cannot be combined because Ryan is a closed system and Subramonian

is a open system; the Examiner respectfully points out that *obviousness can only be*

established by combining or modifying the teachings of the prior art to produce the

claimed invention where there is some teaching, suggestion, or motivation to do so

found either in the references themselves or in the knowledge generally available to one

of ordinary skill in the art. See *In re Fine,* 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir.

1988)and *In re Jones,* 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992).

In this case, since both Ryan and Subramonian are in the same filed endeavor

as the claimed invention as monitoring the activities of user in interactive search

systems, *all claimed elements were known in the prior art and one skilled in the art*

could have combined the elements as claimed by known methods with no change in

their respective functions, and the combination would have yielded predictable results to

a skilled artisan at the time the invention was made.

Notably, it is a well settled rule that *a reference must be considered not only for*

what it expressly teaches but also for what it fairly suggests. See In re Burckel, 592 F.2d

1175,201 USPQ 67 (CCPA 1979) and In re Lamberti, 545 F.2d 747, 192 USPQ 278

(CCPA 1976) as well as In re Bode, 550 F.2d 656, 193 USPQ 12 (CCPA 1977) which

indicates such fair suggestions to unpreferred embodiments must be considered even if

they were not illustrated. Additionally, it is an equally well settled rule that what a

reference can be said to fairly suggest relates to the concepts fairly contained therein,

and is not limited by the specific structure chosen to illustrate such concepts. See In re

Bascom, 230 F.2d 612, 109 USPQ 98 (CCPA 1956).

The Examiner respectfully maintains that the three criteria for establishing a

prima facie case of obviousness under 35 USC § 103 were satisfied with respect to the

claim in question. Specifically, in each of these claims, the Examiner has identified a

suggestion or motivation to modify a reference or combine references; a reasonable

expectation of success in making the modification or combination; and has shown that

the prior art teaches or suggests all the claim limitations. Further, the Examiner

maintains that approved rationale for combining the references was used.

Subramonian, hence, does not teach away from Ryan because they are

combinable as they are analogous and within the same field of endeavor, and

Subramonian complements Ryan.

1. The claim invention v.s prior art: Ryan and Subramonian

<u>**a. Application**</u>

[0035] Another important aspect of the present invention involves an open site

recommendation service. <u>**Explicit user input** and **implicit user data**, derived from user</u>

<u>behavior, may be **monitored** such that the preferences and biases of an individual user</u>

<u>may be known and stored in **a central database**</u>. These preferences and biases may

subsequently be employed by the open recommendation system and method to

personalize the process of information retrieval and to assist the user in making

decisions concerning information which may be most desirable for a given user.

The terms "open" of Applicants described in [0035] as an open site monitoring explicit user input and implicit user data and storing in a central database.

b. Abstract of Ryan

The present invention provides for a method of updating an internet search engine database with the results of a user's selection of specific web page listings from the general web page listing provided to the user as a result of **his initial keyword** search entry. By updating the database with **the selections of many different users**, **the database can be updated to prioritize those web listings** that have been selected the most with respect to a given keyword, and thereby presenting the most popular web page listings in a subsequent search using the same keyword search entry.

explicit user input of Applicants equates to initial keyword of Ryan.

implicit user data of Applicants equates to selections of many different users of Ryan.

a central database of Applicants equates to the database of Ryan.

assist the user in making decisions concerning information which may be most desirable for a given user of Applicants equates to presenting the most popular web page listings of Ryan.

c. Abstract of Subramonian

A method for creating personalized user profiles using a client computer. A client computer executes a method which monitors user activities and collects content and context information based on the monitored user activities. The client computer

processes the content and context information to determine concepts of interest to the

user and the user's level of interest in the concepts. Information related to the concepts

and the user's interest level associated with the concepts is used to create a

personalized profile for the user on the client computer.

explicit user input of Applicants equates to content and context information of

Subramonian.

implicit user data of Applicants equates to concepts of interest to the user of

Subramonian.

a central database of Applicants equates to a personalized profile of

Subramonian.

assist the user in making decisions concerning information which may be

most desirable for a given user of Applicants equates to The client-personalized user

profile may then be used by a variety of applications for providing user-customized and

user-specific services to the user, col. 10, lines 4-21 of Subramonian.

As such, Ryan and Subramonian are analogous to an "open system" as the claim

invention.

Simply by comparing the two monitoring user activities techniques, one can

readily note that the prior art and the claimed invention are both concerned with

monitoring system. Similarly to Ryan's reference, , Ryan's, Subramonian's teachings of

monintoring user activities in a search space is analogous to applicant's method of

distributed monitoring system. Therefore, the ordinary skilled artisan would be motivated

look to the cited references to yield the claimed invention since they complement each

other.

   2. Ryan and Subramonian, as combined, do and can monitor a user who is

accessing information in the search space _who does not_ access the particular

website or search engine of Ryan.

   Ryan teaches monitoring a user who is accessing information in the search

space _(i.e. monitoring user data: **Profile ID Table** (166). The contents of profile ID table_

166 of FIG. 4 are shown in more detail in Table 5 shown below. This table includes a

unique identification, password, contact email and a default profile type which they

normally use to perform their searches, col. 14, lines 16-21; monitoring and collecting

information on the users' activities, col. 6, line 63 to col. 7, line 14; the date-time that the

user visited the web page, record a users personal preferences relating to each URL

including the number of times visited and the key-words and date-time, col. 14, lines 47-

_56;)_

   Subramonian teaches monitoring a user who is accessing information in the

search space _who does not_ access the particular website or search engine in col. 6, line

63 to col. 7, line 14.

   Subramonian teaches monitoring a user who is accessing information in the

search space _(i.e._ Information 62 may also include information associated with **profiles**

of other users, or even information associated with **other profiles for the user**, col. 7,

lines 15-27; _monitoring and collecting information on the users' activities, col. 6, line 63_

to col. 7, line 14; monitoring user activities through the browser and external devices as

televisions,VCRs, phones, cell phones, pagers, several consumer devices (see col. 8,

line 57 to col. 9, line 10) who does not access the particular website *(i.e. Examples of*

external devices 60 include televisions, video cassette recorders (VCRs), audio

systems, phone systems, pagers, and the like, col. 6, line 63 to col. 7, line 14) or search

engine *(i.e. Other applications 66 may include word processors, mail applications,*

graphics applications, database applications, and the like, col. 6, line 63 to col. 7, line

14). The monitoring is independent of the at least one user's access to any search

engine as the step of monitoring the user activities of external devices as

televisions,VCRs, phones, cell phones, pagers, several consumer devices (see col. 8,

line 57 to col. 9, line 10).

Ryan and Subramonian are analogous art because they are in the same filed of

endeavor, both prior art provide monitoring user activities in the search space by

utilizing user profiles. It would have been thus obvious to one of ordinary skill in the art

at the time the invention was made to modify the system of Ryan to include monitoring a

user who is accessing information in the search space *who does not* access the

particular website or search engine as taught by Subramonian. The

suggestion/motivation to combine is to monitor and collect information on the users'

activities performed by the user on external devices which are either coupled to client

computer or which are capable of exchanging information with client computer, as

taught by Subramonian (col. 6, line 63 to col. 7, line 14).

3. Combination would not render Ryan inoperable for principle purpose, and destroy functionality.

Ryan teaches monitoring user activities who is **accessing information in the search space who _does access the particular website or search engine_.**

Ryan does not teach users who do not access the particular website or search engine.

Subramonian, in complement, teaches monitoring user activities who is **accessing information in the search space _who either does and does not_ access the particular website or search engine.** Subramonian teaches monitoring user activities through the browser and external devices as televisions,VCRs, phones, cell phones, pagers, several consumer devices (see col. 8, line 57 to col. 9, line 10 of Subramonian). The monitoring is independent of the at least one user's access to any search engine as the step of monitoring the user activities of external devices as televisions,VCRs, phones, cell phones, pagers, several consumer devices (see col. 8, line 57 to col. 9, line 10 of Subramonian).

Ryan and Subramonian teachings are directed to the same field as monitoring user activities accessing information in the search space **who does access the particular website or search engine**. Subramonina system further complements Ryan system by providing the ability to monitor user activities who is accessing information the search space **_who does not access the particular website or search engine_**. The claimed step of monitoring user activities who is accessing information the search space _who does not access the particular website or search engine_ and Ryan's and

Subramonian's teachings, as combined, are functional equivalent. Both methods

provide the users with the option of monitoring user activities in a very similar fashion.

Contrary to Applicant's arguments, it would have been thus obvious to one of

ordinary skill of the art of data processing to modify Ryan's monitoring user activities

who is accessing information in the search space to include monitoring user activities

who is accessing information in the search space who does not access the particular

website or search engine, as claimed. Such modification would allow users of Ryan's

system to achieve more flexibility in monitoring and collecting information on the users'

activities in search space in view of Subramonian (col. 6, line 63 to col. 7, line 14).

Therefore, Applicant's arguments have been fully considered but they are not

persuasive, the fact that applicant has recognized another advantage which would flow

naturally from following the suggestion of the prior art cannot be the basis for

patentability when the differences would otherwise be obvious. See *Ex parte Obiaya*,

227 USPQ 58, 60 (Bd. Pat. App. & Inter. 1985).

Simply stating that there are differences between two references is insufficient to

establish that such references "teach away" from any combination thereof. *In re Beattie*,

974 F.2d 1309, 1312-13 (Fed. Cir. 1992).

Conclusion

Accordingly, **THIS ACTION IS MADE FINAL.** Applicant is reminded of the

extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE

MONTHS from the mailing date of this action. In the event a first reply is filed within

TWO MONTHS of the mailing date of this final action and the advisory action is not

mailed until after the end of the THREE-MONTH shortened statutory period, then the

shortened statutory period will expire on the date the advisory action is mailed, and any

extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

the advisory action. In no event, however, will the statutory period for reply expire later

than SIX MONTHS from the mailing date of this final action.

The prior art made of record and not relied upon is considered pertinent to
applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the
examiner should be directed to Miranda Le whose telephone number is (571) 272-4112.
The examiner can normally be reached on Monday through Friday from 10:00 AM to
6:00 PM.
If attempts to reach the examiner by telephone are unsuccessful, the examiner's
supervisor, James K. Trujillo, can be reached on (571) 272-3677. The fax number to
this Art Unit is (571)-273-8300.

Any inquiry of a general nature or relating to the status of this application should
be directed to the Group receptionist whose telephone number is (571) 272-2100.
Information regarding the status of an application may be obtained from the
Patent Application Information Retrieval (PAIR) system. Status information for
published applications may be obtained from either Private PAIR or Public PAIR.
Status information for unpublished applications is available through Private PAIR only.
For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should
you have questions on access to the Private PAIR system, contact the Electronic
Business Center (EBC) at 866-217-9197 (toll-free).

/Miranda Le/
Primary Examiner, Art Unit 2169